

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

ERIC SALKOWSKI,

Plaintiff,

Case No. 24-cv-1627-pp

v.

CAROLYN W. COLVIN,

Defendant.

**ORDER GRANTING PLAINTIFF'S MOTION FOR LEAVE TO PROCEED
WITHOUT PREPAYING FILING FEE (DKT. NO. 3)**

The plaintiff has filed a complaint seeking judicial review of a final administrative decision denying his claim for disability insurance benefits under the Social Security Act. Dkt. No. 1. He also filed a motion for leave to proceed without prepaying the filing fee. Dkt. No. 3.

Federal law requires a person who files a complaint in federal court to pay \$405—a filing fee of \$350 (28 U.S.C. §1914(a)) and a \$55 administrative fee (Judicial Conference of the United States District Court Miscellaneous Fee Schedule Effective the December 1, 2023, #14). To allow the plaintiff to proceed without prepaying the filing fee, the court first must decide whether the plaintiff can pay the fee; if not, it must determine whether the lawsuit is frivolous. 28 U.S.C. §§1915(a) and 1915(e)(2)(B)(i).

Based on the facts in the plaintiff's affidavit, the court concludes that he does not have the ability to pay the filing fee. The plaintiff indicates that he is

not employed, he is married and his spouse is employed, and he has three dependents he is responsible for supporting. Dkt. No. 3 at 1. The plaintiff reports no monthly wages or salary but says that his spouse earns \$2,364 per month. Id. at 2. The plaintiff's monthly expenses total \$2,293.80 (\$925 rent, \$70.80 alimony or child support, \$100 credit card payments, \$901 other household expenses, \$222 personal loan, \$75 Dept. of Revenue). Id. at 2-3. The plaintiff does not own his home or any other property of value, he owns a 2003 Buick Century worth approximately \$250 and he has \$10 cash on hand or in a checking or savings account. Id. at 3-4. The plaintiff has demonstrated that he cannot pay the \$405 fee.

The next step is to determine whether the case is frivolous. A case is frivolous if there is no arguable basis for relief either in law or in fact. Denton v. Hernandez, 504 U.S. 25, 31 (1992) (quoting Nietzke v. Williams, 490 U.S. 319, 325 (1989); Casteel v. Pieschek, 3 F.3d 1050, 1056 (7th Cir. 1993)). A person may obtain district court review of a final decision of the Commissioner of Social Security. 42 U.S.C. §405(g). The district court must uphold the Commissioner's final decision as long as the Commissioner used the correct legal standards and the decision is supported by substantial evidence. See Roddy v. Astrue, 705 F.3d 631, 636 (7th Cir. 2013).

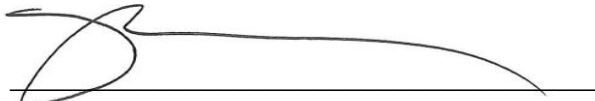
The plaintiff's complaint indicates that he was denied Supplemental Security Income and Disability Insurance benefits for lack of disability and that the decision finding him disabled "is not in accordance with the purpose and intent of the Social Security Act, nor is it in accordance with the evidence, but

contrary thereto, in that the ALJ's decision is not supported by substantial evidence and is contrary to law." Dkt. No. 1 at 1-2. At this early stage in the case, and based on the information in the plaintiff's complaint, the court concludes that there may be a basis in law or in fact for the plaintiff's appeal of the Commissioner's decision, and that the appeal may have merit, as defined by 28 U.S.C. §1915(e)(2)(B)(i).

The court **GRANTS** the plaintiff's motion for leave to proceed without prepaying the filing fee. Dkt. No. 3.

Dated in Milwaukee, Wisconsin this 18th day of December, 2024.

BY THE COURT:



HON. PAMELA PEPPER
Chief United States District Judge